IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8027 of 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

JIVABHAI JAGABHAI CHAUHAN - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

==========

Appearance :

MR MR ANAND for Petitioner(s) : 1,
MR LB DABHI, AGP for Respondent(s) : 1 - 3.

==========

CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 04/02/2006

ORAL JUDGMENT

1. The petitioner has filed this petition under Article 226 of the Constitution of India,

praying for direction to the respondent to treat the impugned suspension order dated 6.12.1991 as illegal, unconstitutional, without jurisdiction, null, void and of no effect whatsoever. The petitioner has also prayed for the direction to the respondent to treat the petitioner as continuing in service for all purposes of service as if the impugned suspension order was not passed at all.

2. The Court has issued notice on 12.8.1993. An order was passed on 13.10.1993 wherein it is observed that though the notice has been ordered to be issued to the respondent as early as August 12, 1993, so far no affidavit in reply has been filed by the respondent. The Court has admitted petition and rule was issued on 9.11.1993. The Court has passed further order on 27.7.1994 wherein it is observed that in the affidavit in reply in para-5 page-30,

the averment was made to the effect that co-accused of the petitioner being a Class-I officer, the decision with regard to the suspension has to be taken by the State Government and papers have been forwarded to the Government and the case was under consideration. The Court has, therefore, directed to place on record as to what happened to that proposal and to inform the Court as to whether any charge-sheet has been filed in connection with the offence registered against the petitioner in 1991 which in fact was the basis for the impugned suspension order. On 9.8.1994 the petitioner informed that the suspension order was passed in the case of co-accused, namely, Mr.K.C.Patel and the said order was placed on record. The Court has, therefore, held that there was no justification granting any interim relief and accordingly interim relief was rejected.

3. Mr.D.C.Raval, learned advocate appearing for the petitioner has submitted that he has no instructions as to whether the suspension order has been reviewed or revoked by the State Government or whether any other action has been taken. Be that as it may, since the order of suspension passed on 6.12.1991 is not stayed by this Court and the said order has been acted upon, it is not just and proper to interfere with the said order after the lapse of about 14 years. The Court, therefore, dismisses this petition on the ground that it has become infructuous by afflux of time. The petition is accordingly dismissed. Rule is discharged without any order as to costs.

(K. A. PUJ, J.)

kks